

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMES STEWART, SUE PEARCE,
JOSEPH VIZZARD, WILIE JONES,
TOLAN FURUSHO, and KEITH
ROBERTSON, derivatively on behalf of
Goldtech Mining Corporation, a Nevada
Corporation,

Plaintiffs,

vs.

TRACY KROEKER, RALPH JORDAN,
JACK LASKIN, NANCY EGAN RICHARD
SMITH, and SERGE BOURGOIN,

Defendants.

Case No. CV04-2130RSL

MEMORANDUM OF DECISION

This matter came to trial as scheduled on February 5, 2007. See Dkt. #162 (Order Setting Trial Date). Defendant Tracy Kroeker appeared *pro se* to defend the claim against her for breach of duty of care regarding the issuance of S-8 shares to Robert Smith. See Dkt. #128 at 11. Neither plaintiffs nor their counsel of record, Kevin Snowden of The Otto Law Group, PLLC, however, appeared for trial.¹ After plaintiffs' counsel failed to appear, the Court

¹ Mr. Snowden of The Otto Law Group is still on the docket as plaintiffs' counsel of record. See Dkt. #151 at 1 (Notice of Appearance) (stating "that Kevin Snowden of The Otto Law Group, P.L.L.C., hereby appears as associate counsel of record for the Plaintiffs. All future pleadings and papers should be served on him[.]"); Dkt. #152 at 1 (Motion by Tracy M. Shier to Withdraw) (stating "The undersigned counsel certifies that this motion was served on The Otto Law Group, PLLC and Kevin Snowden thereof

1 contacted The Otto Law Group. The Court informed the firm of Mr. Snowden's failure to
2 appear for trial, and The Otto Law Group informed the Court that Mr. Snowden no longer was
3 employed by the firm. Subsequently, The Otto Law Group sent a representative to attend the
4 trial but he was not prepared to prosecute the case on behalf of plaintiffs. Accordingly, under
5 Fed. R. Civ. P. 41(b) and the Court's inherent power, the Court dismisses plaintiffs' claim
6 against defendant Kroeker for failure to prosecute. See Fed. R. Civ. P. 41(b); Link v. Wabash
7 R.R. Co., 370 U.S. 626, 630 (1962); Al-Torki v. Kaempfen, 78 F.3d 1381, 1385 (9th Cir. 1996)
8 ("Failure to appear for trial, without excuse, prejudices an adversary and interferes with the
9 court's docket about as much as any procedural default can.").

10 For all the foregoing reasons, the Clerk of Court is directed to enter judgment in favor of
11 defendant Tracy Kroeker and against plaintiffs. As with the judgment previously entered against
12 defendant Kroeker, which was vacated, the Court will consider a motion by plaintiffs under Fed.
13 R. Civ. P. 60(b) for relief from the judgment. See Dkt. #146, #148, and #161.

14 The Clerk of Court is also directed to send a copy of this order and the judgment to The
15 Otto Law Group. The Otto Law Group, in turn, shall send a copy of the order and judgment to
16 plaintiffs.

17 DATED this 6th day of February, 2007.

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20 Robert S. Lasnik
21 United States District Judge
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26 as Plaintiffs' continuing counsel."); Dkt. #157 at 1 (Declaration of Kevin Snowden in Support of
27 Plaintiffs' Opposition to Motion to Vacate) (stating "The Otto Law Group, PLLC ("OLG"), acts as
28 counsel to the Plaintiff in this matter, and I am an attorney at OLG.").